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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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BRENT A. CAPEHART
P.O. BOX 4126
TULSA, OK 74159

EXAMINER

WRIGHT, ANDREW D

ART UNIT PAPER NUMBER

3617

DATE MAILED: 08/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/780,388

Applicant(s)

NORTH ET AL.

Examiner

Andrew Wright

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the seat pedestal connected to a door (claim 7) and the pole light (claim 9) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

3. Claims 1, 2, 8, 13, 14, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Del Vecchio (US 3,718,111). See figure 1. Hull (12) is circular, has a topside, a forward end and an aft end. First slot (47) is in the forward end. Second slot (62) is in the aft end. Rudder (64) is connected to the hull in the aft portion. Motor (38) is connected to the hull in the forward portion. The motor inherently has a drive shaft and/or a propeller shaft.

4. Claim 2, the hull has a compartment (56).

5. Claim 8, the rudder is pivotally connected to the hull.

6. Claim 13, the hull comprises shell (14, 16) and floatation material (22). The shell covers the entire surface of the floatation material.

7. Claim 14, the floatation material comprises two solid masses (22, 24) of polyurethane foam which is known in the art and is a multicellular expanded synthetic resinous material.

8. Claim 17, compartment (56) is formed in the floatation material.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 3-5 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Del Vecchio (US 3,718,111) in view of Schulz, Jr. (US 3,324,488). Del Vecchio shows a compartment (56) formed in the floatation material. Del Vecchio does not disclose that the compartment has a door. Schulz shows a circular boat with a motor, the boat being made of plastic covered foam like that of Del Vecchio. Schulz shows that storage compartments (24, 26) can be formed in the foam. The compartments are for storage (column 2, lines 48-54). The compartments have doors that allow access. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Del Vecchio by adding a storage compartment with a door. The motivation would be to provide storage for the user.

11. The recitations "to house a battery" and "to house a storage" are intended use recitations. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

12. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Del Vecchio in view of Schulz, Jr. as applied to claim 4 above, and further in view of Salmons (US 5,331,914). Del Vecchio shows a seat built into the hull. Salmons shows a

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circular boat with a pedestal seat. The skilled artisan will recognize that the Salmon seat gives the operator better visibility by virtue of being elevationally higher. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify Del Vecchio by providing a pedestal seat instead of a sunken seat. The motivation would be to afford the operator better visibility and mobility. The seat would be indirectly connected to one of the doors via intermediate elements.

13. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Del Vecchio (US 3,718,111) in view of Pingel et al. (US 4,856,452). Del Vecchio does not disclose a pole light. Pingel shows a navigation light on a pole. It is well known and common, and even sometimes required by law, to use a navigation light when operating a boat at night. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Del Vecchio by adding a navigation light such as the one shown by Pingel. The motivation would be to provide a visual indicator for the boat for operating in the dark.

14. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Del Vecchio (US 3,718,111) in view of Tether (US 5,863,228). Del Vecchio shows an internal combustion motor, but does not associate any criticality thereto. Del Vecchio does not disclose an electric motor. Tether teaches that it is known in the art that electric motors are generally quieter and less polluting than internal combustion engines (column 1, lines 25-42). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Del Vecchio by replacing the

internal combustion engine with an electric motor. The motivation would be to provide a quieter and less polluting source of propulsion.

15. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Del Vecchio (US 3,718,111) in view of Tether (US 5,863,228) and LeBlanc et al. (US 5,606,930). Del Vecchio shows an internal combustion motor, but does not associate any criticality thereto. Del Vecchio does not disclose an electric motor. Tether teaches that it is known in the art that electric motors are generally quieter and less polluting than internal combustion engines (column 1, lines 25-42). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Del Vecchio by replacing the internal combustion engine with an electric motor. The motivation would be to provide a quieter and less polluting source of propulsion. One would necessarily need a control system for the electric motor. LeBlanc shows a controller for an electric motor. LeBlanc teaches that the controller allows the operator to maintain a solid stance on the vessel while controlling the electric motor. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Del Vecchio by using the LeBlanc controller for the electric motor. The motivation would be to provide a controller for the electric motor that allows control of the motor while the operator is away from the motor, as taught by LeBlanc. The controller is remote and uses a wireless transmitter. Therefore, the motor is both remote controlled and radio controlled.

16. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Del Vecchio (US 3,718,111) in view of Rytand et al. (US 6,450,737). Del Vecchio

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disclose that the shell is plastic material. Del Vecchio does not disclose that the shell is watertight and airtight, and that the shell material prohibits rust, corrosion and surface abrasion, or that the shell material is polyurethane. Rytand shows a floating dock structure. The floating dock comprises modules having a foam core (38). Rytand teaches that the foam core is covered with a shell of polyurethane to protect against degradation of the foam core. Since Del Vecchio does not specify the plastic material of the shell, one wishing to make and/or use the Del Vecchio apparatus would necessarily need to decide upon a material to use. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Del Vecchio by making the shell (14, 16) from polyurethane. The motivation would be to make and/or use the Del Vecchio apparatus with materials known in the art. The polyurethane shell will prohibit rust, corrosion, and surface abrasion. It is well known and common to make the shell watertight and airtight to prevent water from contacting the foam core, since the purpose of the shell is to protect the foam core.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Moore et al. ('417) shows a circular boat with a motor and rudder. Sharp ('436) shows a circular boat with a motor and a rudder. Francois ('873) shows a circular boat with a motor and a rudder. Parsons ('171) teaches that a skin should be watertight over a foam core. Lukehart et al. ('689) shows a circular boat with a motor, battery compartment, and pedestal seat. Johnson, Sr. ('378) shows a circular boat with a motor and rudder.

18. Any inquiry concerning this communication should be directed to examiner Andrew D. Wright at telephone number (703) 308-6841. The examiner can normally be reached Monday-Friday from 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano, can be reached at (703) 308-0230. The fax number for official communications is 703-872-9306. The fax number directly to the examiner for unofficial communications is 703-746-3548.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andrew D. Wright
Patent Examiner
Art Unit 3617

ANDREW D. WRIGHT
PRIMARY EXAMINER

Ar 8/17/04